

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Rodgerick Booth,

Plaintiff,

Civil Case No. 21-10579

v.

John Doe and D. Molinar,

Sean F. Cox

United States District Court Judge

Defendants.

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ORDER

Acting *pro se*, Plaintiff Rodgerick Booth filed this civil rights case under 42 U.S.C. § 1983. The action was assigned to Magistrate Judge Kimberly Altman for all pretrial matters.

On July 23, 2021, Defendants filed a Motion to Dismiss. (ECF No. 14). After the parties briefed the motion, on January 7, 2022, the magistrate judge issued a Report and Recommendation (“R&R”) (ECF No. 23) wherein she recommends that the Court grant the Motion to Dismiss. The R&R expressly advised the parties that any objections to the R&R must be filed within fourteen (14) days. (*Id.* at 13).

Pursuant to FED. R. CIV. P. 72(b), a party objecting to the recommended disposition of a matter by a Magistrate Judge must file objections to the R&R within fourteen (14) days after being served with a copy of the R&R. “The district judge to whom the case is assigned shall make a *de novo* determination upon the record, or after additional evidence, of any portion of the magistrate judge’s disposition to which specific written objection has been made.” *Id.*

The time for filing objections to the R&R has expired and the docket reflects that neither

party has filed any actual objections to the R&R. But Plaintiff did file a “Motion For Reconsideration And To Amend And Alter Plaintiff’s Response To Defendant’s Motion To Dismiss And Amended Brief In Support” (ECF No. 24), which the Court shall construe as an objection to the R&R. In this submission, Plaintiff indicates that he would like to file an amended brief in response to Defendants’ Motion to Dismiss, and suggests that consideration of that amended brief should result in the Motion to Dismiss being denied. Plaintiff’s motion attaches the amended brief that Plaintiff would like to file in response to Defendants’ Motion to Dismiss.

Having considered Plaintiff’s submission, and having reviewed the amended brief that Plaintiff wishes the Court to consider, the Court concludes that Defendants’ Motion to Dismiss should still be granted for the reasons set forth in the magistrate judge’s R&R. That is, even if Plaintiff had filed his proposed amended response brief, that would not change the result as to the ruling on Defendants’ Motion to Dismiss. The motion should still be granted because Plaintiff’s complaint fails to state a claim upon which relief may be granted.

Accordingly, IT IS ORDERED that Plaintiff’s motion (ECF No. 24) is DENIED, the magistrate judge’s R&R (ECF No. 23) is ADOPTED, Defendants’ Motion to Dismiss (ECF No. 14) is GRANTED, and this action shall be DISMISSED.

IT IS SO ORDERED.

s/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: February 1, 2022